FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.731 OF 2006**

The Bombay Mill Stores Supply Company Pvt.Ltd., & Ors. ..Applicant

V/s.

Ramnik M.Shah & Anr. ..Respondents

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr.Amit Desai Senior Advocate with Mr.Prakash Naik for the applicant.

Mr.Atul S.Tungare for Respondent no.2.

Mr.S.S.Pednekar APP for the State.

**Coram : R.S.Mohite,J**

Date : 2.3.2006.

PC

1. Heard both sides. This is an application for quashing the FIR. On perusal of the FIR it is clear that the same was filed on the basis that an amount of Rs.60,62,660/- was owing by the accused persons from the Complainant. On the prima facie reading of the FIR it appears that the help of the police machinery

was sought to be taken for effecting recovery. It is admitted in the FIR that for 7 years there has been dealing between the parties. There is case made out of dis-honest intention from the very inception of the disputed transactions.

2. Apart from this, the parties have filed a Memorandum of Understanding dated 17.2.2006 for settlement of their pending dispute. It appears that both the parties are businessmen. The complainant has filed an affidavit dated 27.2.2006 admitting the execution of the Memorandum of Understanding and giving his consent for the quashing subject to an undertaking to be given by the petitioners that they should honour the post dated cheque to be given to the complainant.

3. I may state over here that in such matters where the police machinery has been utilised to arrive at a settlement, it is

desirable that compensatory cost should be imposed. In the circumstances, costs of Rs.10,000/- to be paid by a bank draft to the State of Maharashtra within a period of 2 weeks from today. APP states that the draft in question may be drawn in favour of "Police welfare fund". In addition to paying the cost, the petitioner nos.2 & 3 on behalf of themselves and petitioner no.1 will file undertaking to this Court to the effect that the post dated cheque which has been handed over to the complainant will be honoured. Undertaking to be given within a period of 2 weeks from today. If cost is paid and undertaking is given within a period of 2 weeks, the application stands allowed in terms of prayer clause-(A). If compliance of the aforesaid direction is not made, application to stand dismissed. It is made clear that the quashing of the FIR in this case is being effected in view of the special facts & circumstances of this case

and as the FIR itself mentions that it has been filed to create pressure. This order will not be treated as a precedent for quashing proceedings relating to serious non compoundable offences.

. Parties to act on an ordinary copy of this order duly authenticated.

**(R.S.Mohite,J)**